IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 4TH JULY 2007 / 13TH ASHADHA 1929

WP(C).No. 20259 of 2007(J)

PETITIONER:

PHILIPOSE ABRAHAM, CHIRAYATHU REJISH VILLA, KUMPLAMPOIKA P.O., RANNI TALUK, PATHANAMTHITTA. (WORKING AS DEPUTY SUPERINTENDENT OF POLICE, THIRUVALLA).

BY ADV. SRI.M.AJAY

RESPONDENTS:

1. THE STATE OF KERALA, REPRESENTED BY ITS CHIEF SECRETARY, THE SECRETARIAT, THIRUVANANTHAPURAM.

2. THE ADDITIONAL CHIEF SECRETARY TO GOVERNMENT, HOME DEPARTMENT, THE SECRETARIAT, THIRUVANANTHAPURAM.

3. THE POLICE ESTABLISHMENT BOARD, REPRESENTED BY ITS CHAIRMAN, THE DIRECTOR GENERAL OF POLICE, POLICE HEADQUARTERS, THIRUVANANTHAPURAM

4. MR.SANAL KUMAR, ADVOCATE, PRESIDENT, ALL KERALA GAS AGENCY WORKERS UNION (CITU), CPI(M), AREA COMMITTEE OFFICE, THIRUVALLA.

5. MR.THOMAS JOHN, DYSP (ADMINISTARION), PATHANAMTHITTA.

6. MR.MATHEW T.THOMAS, HON. MINISTER FOR TRANSPORT, THE SECRETARIAT, THIRUVANANTHAPURAM.

7. MR.KODIYERI BALAKRISHNAN, HON.MINISTER FOR HOME, THE SECRETARIAT, THIRUVANANTHAPURAM.

8. THE STATE PUBLIC INFORMATION OFFICER, POLICE HEADQUARTERS, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI. BIJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C) No.20259 of 2007-J

Dated this the 4th day of July, 2007.

J U D G M E N T

The petitioner is a Deputy Superintendent of Police. He was working at Thiruvalla. By Ext.P5 order, he has been transferred to Idukki. This writ petition is filed, challenging Ext.P5, on the ground that it is vitiated by malafides. Because of the political interference at the instance of the union leaders, he has been shifted, it is submitted. It is also alleged that the transfer has been made, in violation of the new amendment introduced to the Kerala Police Act with effect from 7-4-2007. Special reference is made to Section 5 of the Ordinance amending the Act introducing Section 4A (2) to the Kerala Police Act. In view of the submissions made by the petitioner, the files leading to the transfer of the petitioner were called for. On going through the files, it is seen that the transfer was ordered by the Government, based on the recommendations made by the Board constituted under the said Ordinance consisting of Director General of Police, Additional Director General of Police (Intelligence), Additional Director General of Police (Operation), Additional Director General of Police (Headquarters) and Additional Director General of Police (Crimes). The minutes of the said committee would show that the petitioner's performance at Thiruvalla is not adequately competent and efficient and is adversely affecting the overall

functioning of the Police Force. So, it has suggested to transfer him as Deputy Superintendent of Police, DCRB, Idukki, in the existing vacancy. The Government accepted the recommendations and issued the transfer order. The learned counsel for the petitioner perused the files. He submitted that the decision of the Police Establishment Board is not supported by any materials and therefore, the Government should not have acted upon it.

2. If the senior most officers of the Police Establishment Board feel that the petitioner's performance is not adequately competent and efficient and he should be transferred out, and their recommendation is accepted by the Government, I think this Court is not justified in interfering with the same, overruling the decision of the competent Board and also the Government, based on certain news paper reports. The petitioner points out that the view expressed by the Board is a slur on his reputation. But, it is only in the minutes of the meeting deciding his transfer. He has not been served with any show cause notice or other memo. Therefore, the said contention cannot be accepted.

In the result, the Writ Petition fails, and it is dismissed.

K.BALAKRISHNAN NAIR,
JUDGE.

MS